

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION

FREDERICK RUSH

v.

CIVIL ACTION NO. 1:13-CV-00133-GHD-DAS

WINSTON COUNTY SHERIFF DEPARTMENT, et al.

ORDER ADOPTING REPORT AND RECOMMENDATION

Upon consideration of the file and records in this case, the Court finds that the Report and Recommendation [11] of the United States Magistrate Judge dated December 9, 2013 was on that date duly served upon Plaintiff's counsel and Defendant's counsel of record, that more than fourteen (14) days have elapsed since service of said Report and Recommendation [11], and that no objection thereto has been filed or served by any party. The Court is of the opinion that the Magistrate Judge's Report and Recommendation [11] should be approved and adopted as the opinion of the Court.

It is therefore **ORDERED**:

1. That the Report and Recommendation [11] of the United States Magistrate Judge dated December 9, 2013 is hereby approved and adopted as the opinion of the Court; and
2. That the Plaintiff's lawsuit is DISMISSED WITHOUT PREJUDICE for his failure to prosecute under Rule 42(b) of the Federal Rules of Civil Procedure, specifically, for his failure to appear before the Magistrate Judge for a hearing as set forth in *Spears v. McCotter*, 766 F.2d 179 (5th Cir. 1985), despite his acknowledged receipt of the Order setting same.

SO ORDERED, this, the 2nd day of January, 2014.

Shel H. Danziger
SENIOR JUDGE